



- Mr. Fernando Hernandez, Nipomo resident – requested that the Regional Board cover the cost of the cleanup and transport of contaminated material for the property at Orchard and Division Streets. Staff members will review the materials

submitted by Mr. Hernandez and provide a recommendation to the Board.

- Mr. Bruce Buel, Los Osos CSD – provided an update to the Board on the Los Osos Wastewater Project.
- David Nelson, Morro Bay resident – discussed the Duke Energy discharge permit and supported dry cooling for Morro Bay.
- Kaitilin Gaffney, The Ocean Conservancy – supported dry cooling system for the Morro Bay Power Plant.
- Mr. Mark Schleich, Santa Barbara County Public Works - addressed the Regional Board about the Tajiguas Class III Landfill in Santa Barbara County and addressed the following issues:

- 1) The County of Santa Barbara is addressing public concerns regarding bacteriological impacts to surface waters directly down-gradient of the Tajiguas Landfill by instituting a "Gulls Control Program". DNA testing confirmed the primary source of bacteria to nearby surface waters is avian. The gulls program uses a falcon trainer including several trained falcons to

"discourage" sea gulls from the Landfill area. Since program inception, the Arroyo Quemado Beach has gone 35 consecutive weeks with no beach closures. 2) The County of Santa Barbara submitted a timely response to a Regional Board directive requesting the County to address several landfill related issues. Subsequently, the Regional Board formally approved the County's response. 3) The County has prepared and completed an Environmental Impact Report concerning a proposed landfill expansion and submitted, for Regional Board consideration, a Report of Waste Discharge. 4) The County continues to work closely with Regional Board staff in revising its waste discharge requirements.

Regional Board member Daniels asked if the falcons kill the gulls and whether the program would be long term. Mr. Schleich indicated the County intends to implement the falcon program in perpetuity. He also pointed out the falcons do not kill the gulls; they are trained to scare them away.

5. Uncontested Items.....Board Motion

Executive Officer Briggs recommended that Item Nos. 9, 10, 19, 20, 21, 22, 23, and 24 be included on the consent calendar.

MOTION: Bruce Daniels moved to approve the consent calendar. SECONDED by Russell Jeffries. CARRIED – Unanimously (8-0)

6. Waiver Action Related to Waste Discharge RequirementsInformation/Status/Resolution No. 2002-0115

This item included three parts. Senior Engineer Eric Gobler presented background information including regulatory requirements, current waiver categories and future waiver actions planned. Kimberly Gonzalez, Water Resources Control Engineer, presented the General Waiver for specific types of discharges. Alison Jones, Environmental Scientist, presented a Status Report on a Conditional Waiver for Agricultural Runoff.

Ms. Gonzalez discussed Resolution No. R3-2002-0015 and the various Waiver Conditions, including General Conditions, those applicable to Waivers of Waste Discharge Requirements and those applicable to Waivers of Report of Waste Discharge. Ms. Gonzalez briefly discussed environmental documents prepared to

ensure compliance with the California Environmental Quality Act.

Regional Board Members had questions about applicable fees. Mr. Gobler mentioned that fees for waiver actions typically have been \$400.00 based on the lowest threat to water quality and that was expected to continue. There was some question about one time fees, annual fees and fees for projects that extend beyond the five-year waiver period. Staff will obtain clarification on fee requirements. There was a question about Caltrans catch basins. Ms. Gonzalez responded that such basins are regulated through the storm water program.

Vicki Clark, representing Heal the Ocean, mentioned the importance of the five-year public review process.

Ms. Clark asked if the waiver applied to oil well drilling muds and mentioned the importance of tracking septic system permits. Ms. Gonzalez indicated that the proposed waiver specifically does not include oil well drilling muds and that separate regulation would apply. Mr. Gobler mentioned that septic system tracking, along with updated regulatory guidelines, is part of the State and Regional Board effort required by Assembly Bill 885. Related regulatory updates are part

of the reason the septic system waiver has been extended to June 30, 2004.

Bruce Daniels, public member, identified a wording error in paragraph B.2.e of the Waiver Conditions, Attachment A1. Ms. Gonzalez acknowledged the error and suggested the wording be modified similarly to that of paragraph B.1.d.

MOTION: Russell Jeffries moved to adopt Resolution No. 2002-0115 in accordance with the staff recommendation and the Attachment A1, Section B.2.e correction. SECONDED by Jeffrey Young, CARRIED – Unanimously (6-0) Note: Board members Daniels and Villeneuve recused from the vote.

Alison Jones gave a brief status report on plans for a Conditional Waiver for Agricultural Runoff. Ms. Jones mentioned that the planned waiver proposed to build on the existing Monterey Bay National Marine Sanctuary Agriculture and Rural Lands Plan. Key components of that Plan include formation of grower working groups, development and implementation of farm water quality management plans, and technical assistance provided by the Farm Bureau watershed coordinators. Ms. Jones emphasized ongoing Regional Board coordination efforts with grower groups, the Farm Bureau, special interest organizations and other partners, and mentioned that a preliminary document had been circulated to stimulate initial discussion and input. She indicated that the Conditional Waiver is scheduled for Regional Board consideration at its March 21, 2003 meeting.

monitoring data to assess progress. One Regional Board Member indicated that experience suggests that self-policing will work well in the grower groups being considered.

Joy Fitzhugh, San Luis Obispo County Farm Bureau, mentioned her appreciation for ongoing communication by Regional Board staff. She indicated that grower groups formed to date have worked well, monitoring will aid in evaluating progress, and the Farm Bureau is committed to assisting. She provided two letters with written comments on the draft document, which the Regional Board asked to be included in the future agenda package.

Katilin Gaffney, The Ocean Conservancy, recognized the value of the Monterey Bay National Marine Sanctuary's Agricultural Plan and provided a letter identifying specific comments. Copies of the letter were given to Regional Board Members and will be included in the future agenda package.

Regional Board Members asked about definitions for "tail water" and "tile drains," which Ms. Jones and Board Member Hayashi addressed. They also asked what conditions were being considered and if specific limits were anticipated. Ms. Jones said specific limits were not currently planned. She mentioned general conditions anticipated include preventing conditions of pollution or nuisance and monitoring to assess compliance. Regional Board Members asked how information would be reported to evaluate effectiveness and how will member participation be measured? Ms. Jones indicated that annual reports would document management practice implementation. Regional Board staff would review the reports and

Sandra Sarrouf, Environmental Center of San Luis Obispo, mentioned pesticide concerns and her preference that agriculture not be exempt from NPDES regulations. She stated that written comments would be provided on the draft waiver document. Ms. Sarrouf summarized her comments, including a recommendation that farmers be required to identify themselves, their property and their practices, that monitoring be required, and that a fee structure be developed.

7. Chorro Creek and Los Osos Creek TMDL for Nutrients and Dissolved OxygenResolution No. 2002-0118 [Katie McNeil 805/549-3336]

Regional Board staff, Katie McNeill, gave a presentation about the proposed Basin Plan Amendment: adding TMDLs, numeric targets and an

implementation plan for nutrients for Chorro Creek and Los Osos Creek to the Basin Plan.

The Board expressed concern that the staff report did not make it clear that Attachment B was available at the website and not physically included in the agenda package for the item.

Board members asked questions and discussed the following issues with staff: how the numeric targets were established and concern with the use of nutrient ratios to set the targets that the Resolution would need to be brought back before the Board if there were changes to the targets and allocation values, or if additional regulatory mechanisms were needed to implement the TMDL; why there were such variations in nitrate loads from the California Men's Colony wastewater treatment plan; why some implementing parties are included under "voluntary" and others under "regulatory" means; and that staff did not find impacts to fish but have included fish population counts in the monitoring program.

Additionally, Board members asked why ammonia is not included as a target, as it is very toxic, and

suggested it should be included in the monitoring plan if it is a problem. The Board also asked why nitrite was not included as a numeric target. Staff explained that there is not data throughout the watersheds, as with nitrate and phosphate. Staff replied that they are hesitant to include these forms as numeric targets in the Resolution without first evaluating existing conditions, and agreed that it would be beneficial to include these forms of nitrogen in the monitoring plan. Staff indicated that they will evaluate whether to include other forms of nitrogen as targets or just in the monitoring plan.

The Board discussed the possibility of continuing the item to give Board Members time to review the staff report on the web.

There were no public comments. The Board will continue the item when staff is ready to bring it back before the Board. The Board took no action.

(Chair Shallcross announced a break at 10:50 am. Board member Hayashi left the meeting. The meeting reconvened at 11:15 am.)

8. Morro Bay TMDL for Pathogens (including Chorro and Los Osos Creeks).....Resolution No. 2002-0117
[Shanta Duffield 805/549-3464]

Chair Shallcross read an opening statement and swore in all interested parties. Regional Board staff, Shanta Duffield, gave a presentation about the proposed Basin Plan Amendment: Adoption of the Morro Bay Total Maximum Daily Load (TMDL) for pathogens, including Chorro and Los Osos Creeks, adoption of the implementation plan, and adoption of the monitoring plan.

During the presentation, Board member Daniels asked questions regarding background levels of fecal coliform and the significance of birds in the estuary. Staff responded that background levels of fecal coliform are unknown and that the Bay is an important migration pathway resting point and habitat for the birds.

Board member Young asked if the higher concentration of numeric targets for fecal coliform in the creeks as compared to the targets in the Bay would insure protection in the Bay. Staff responded that based on data, concentrations in the Bay should be met even with higher targets in the creeks.

Mr. Young also asked several questions and made comments about information from Department of Health Services (DHS), including adding DHS' standards for shellfishing into the Basin Plan, adding the number of historic closure days, and also adding that the goal of the TMDL is to restore the shellfishing beds to historic conditions, as much as practically possible. Staff responded that DHS standards would be incorporated into the Basin Plan and would add language to honor the other two requests as well.

Public Testimony:

Mr. Harold Biaggini stated that the Board was receiving information that comes from staff and Mr. Briggs, which are human and can make mistakes. A request was made that all water sampling by staff be split with the landowner (because the landowner could preserve the sample with acid for later analysis) and permission obtained to be on property.

Mr. Babak Naficy, who was representing himself, said it is inappropriate for Cal Poly not to be singled out in terms of discharger responsibility, since Cal Poly is an educator and leader of future ranchers and farmers.

Mr. Briggs asked staff to address the issues raised during public comment. Ann Kitajima from the Morro Bay National Estuary Program's Volunteer Program explained how monitoring staff coordinates with all property owners prior to sampling. Shanta Duffield

explained that the part of Cal Poly that is in the watershed excludes the main developed part of the campus (it is in San Luis Creek) so Cal Poly's recommended role in the TMDL for Morro Bay watershed is appropriate

MOTION: Russell Jeffries moved to approve Resolution No. 2002-0117. SECONDED by Donald Villeneuve. CARRIED – Unanimously (7-0)

11. Toro Creek Groundwater Basin [Sheila Soderberg 805/549-3592] Board Direction

Joe Gonzalez, Chevron Pipe Line Company (Chevron), requested a deferral of this item until the February 2003 Regional Board meeting. Mr. Gonzalez indicated that Chevron did not receive the staff report until Thursday (December 5, 2002), and did not have time to discuss the report with Regional Board staff or prepare a response for submittal to the Regional Board. Ms. Soloway, Regional Board counsel, indicated that the agenda and staff report are required to be mailed 10 days prior to the Regional Board meeting. The Executive Officer, Mr. Briggs, indicated that he had an email message from staff on Wednesday (December 4, 2002), indicating that Mr. Waldron from Chevron was not happy with the staff report, which indicated Chevron had received and reviewed the report by that date. When questioned, Mr. Gonzalez indicated that Chevron was in contact with staff prior to the meeting. The Regional Board declined to defer the item.

(Chair Shallcross announced a break for lunch and Closed Session at 12:10 pm. The meeting reconvened at 1:05 pm.)

Sheila Soderberg, staff geologist, proceeded with a presentation recommending the Regional Board provide direction to staff to retain the drinking water supply beneficial use of groundwater beneath Chevron's Shore Plant facility.

Mr. Jerry Ross, Chevron attorney, indicated that Chevron requested the change in the beneficial use designation to develop water resources upstream from Chevron's Shore Plant facility and not because of petroleum hydrocarbon contamination beneath the Shore Plant. Mr. Ross indicated that Chevron was ready to begin cleanup.

Mr. Babak Naficy said he was confused regarding Chevron's request to change the beneficial use because of proposed development activities. Mr. Naficy indicated that he supported staff's recommendation to retain the current beneficial use designation.

Mr. Bill Boucher, City of Morro Bay, supported staff's recommendation to retain the municipal and domestic supply beneficial use designation.

Ms. Sandra Sarrouf, EcoSlo, supported staff's recommendation to retain the current beneficial use designation. Ms. Sarrouf expressed concern that elevated concentrations of petroleum hydrocarbons are in soil and groundwater beneath the facility.

The Regional Board directed staff to proceed no further with a Basin Plan amendment.

MOTION: Leslie Bowker moved to approve the issuance of a Cleanup or Abatement Order requiring Chevron to develop soil and groundwater cleanup goals at the Shore Plant that implements all applicable water quality objectives, including the narrative taste and odor objective, and a soil cleanup level based on the drinking water supply beneficial use and Resolution No. 92-49. SECONDED by Donald Villeneuve. CARRIED – Unanimously (7-0)

13. MTBE Sites [Jay Cano 805/549-3699]..... Status Report

Mr. Jay Cano, Senior Engineer, provided a summary of recent meetings with Santa Barbara County Protection Services Division staff, and State Water Resources Control Board staff. The Board asked several questions regarding performance of Santa Barbara County's underground tank cleanup program. The Board requested follow-up information regarding Santa Barbara County's enforcement authority, site cleanup progress, and site status. The Board also invited Santa Barbara County to provide an overview of its oversight program at the October 2003 Board meeting. Staff indicated it will provide information in subsequent staff reports and invite the County to the October meeting. Board Member Young said that it would be helpful for the County Board of Supervisors to be aware of the Regional Board's concerns about site cleanups. He suggested a teleconference meeting with Supervisor Schwartz, Vice Chair. Chair Shallcross appointed a committee (Young, Daniels) to discuss the

issues with Supervisor Schwartz. Mr. Briggs said he would coordinate the meeting.

Regarding the Chevron Service Station, 2194 Main Street, Cambria, Board Member Villeneuve noted some discrepancies in Chevron Products Company's monthly progress reports to the Regional Board. Dr. Villeneuve indicated that Chevron's letter erroneously indicated that the new High School Well provides equal replacement water quantity for Cambria Community District's Nos. 1 and 3. In addition, Dr. Villeneuve indicated that Chevron's letter contained bold type that Chevron "may" provide supplemental water. Dr. Villeneuve indicated that Chevron's wording implies that replacement water is conditional and not required by the Regional Board's Cleanup or Abatement Order No. 00-28.

(Chair Shallcross announced a break at 2:30 pm. The meeting reconvened at 2:40 pm.)

14. Prospective Purchaser Agreement, Innovative Micro Technologies, Inc. Board Approval [Sheila Soderberg 805/549-3592]

Sheila Soderberg, staff geologist, reviewed a supplemental sheet containing a proposed change in wording in the Prospective Purchaser Agreement (PPA). Harvey Packard, senior engineer, indicated that Innovative Micro Technology (IMT) entered into a cost recovery agreement for Regional Board oversight of cleanup activities.

The Regional Board expressed concern regarding potential Regional Board liability incurred by entering into the PPA. Regional Board legal counsel indicated that IMT is ultimately responsible for cleanup. By entering into the PPA, the Regional Board would not incur additional liability as long as the Regional Board did not begin its own pollution cleanup at the facility.

The Regional Board questioned if IMT's insurance policy would pay for cleanup of pollution originating after December 2001. Mr. Steven O'Neil, IMT's attorney, indicated that the facility was shut down, thus

pollution originating from the facility after that date is unlikely. Mr. O'Neil indicated that the insurance policy will begin reimbursement after IMT's \$100,000 deductible is met. Mr. O'Neil said that IMT has spent approximately \$20,000 to date. Mr. O'Neil indicated that the PPA would improve IMT's chance of property sale and that money currently spent on mortgage, insurance, and taxes (approximately \$80,000 per month) could be put towards the insurance deductible and improve the company's financial health after emerging from bankruptcy.

Mr. O'Neil indicated that the property had a prospective purchaser, the Sares-Regis Group. Mr. O'Neil indicated that John Foster and Peter Altavilla, both from IMT, Mr. Russell Goodman of the Sares-Regis Group, and their consultant, Mr. David Bernal from URS, were available for questions.

MOTION: Jeffrey Young moved to approve execution of the Prospective Purchaser Agreement that will include the addition of vinyl chloride in the list of contaminants. **SECONDED** by Leslie Bowker. **CARRIED – Unanimously (7-0)**

17. Global Mushroom, Santa Clara County [Kimberly Gonzalez 805/549-3150] Order No. 2002-0127

The Regional Board had a hearing for the Global Mushrooms enforcement case. The enforcement action was based on the Discharger's failure to submit requested reports. After staff presentation by Kimberly Gonzalez and testimony by Mr. George Chiala of

Global Mushrooms, Board Members asked questions about the communication within the company, and how compliance matters are now being handled by Global Mushrooms. Mr. Chiala asked for a reduced penalty.

MOTION: Russell Jeffries moved to adopt Order No. R3-2002-0127 in accordance with staff's recommendation for \$5,000. SECONDED by Marco Rizzo. CARRIED – Unanimously (7-0).

**18. PG&E, Moss Landing Power Plant, Monterey County Board Approval
[Brad Hagemann 805/549-3697]**

Regional Board staff members Brad Hagemann and Alison Jones provided a summary of the Consent Judgment by presenting a brief background on the backflush discharges and a summary of the Consent Judgment.

A December 10, 2002 letter from Monterey County 3rd District Supervisor Calcagno that supported two specific projects was also provided to the Board members. Board members also discussed General Project and Support Funding Criteria (section 8.2) of the Consent Judgment.

(Board member Villeneuve left the meeting at 4:00 pm)

MOTION: Bruce Daniels moved to approve the Consent Judgment. SECONDED by Russell Jeffries. CARRIED – Unanimously (6-0)

26. Reports by Regional Board Members Status Report

Board member Young provided a report on the southern Water Quality Coordinating Committee Bacterial Tracking Workshop.

27. Executive Officer's Report Information/Discussion

Mr. Briggs pointed out the written report on Carpinteria Valley Greenhouses, and said he had no more to report on the issue. Mr. Drew Bohan of Channelkeeper submitted a card to speak on this item. Mr. Bohan said he believes some greenhouse operators are misleading the Board's staff, and are not ceasing wastewater discharges to surface waters. The staff report states, based on the results of staff's inspections, all greenhouses have either ceased discharging to surface waters or are working on it. Mr. Bohan requested the Board take enforcement action against such parties. He showed the Board photographs of several discharges into waterways, and provided results of an inspection tour he conducted a few days before the Board meeting. For example, he said a discharge from Westerlay Roses into a channel feeding Santa

Monica Creek, which Michael Higgins had found stopped after discussions with Westerlay's owners, was again flowing. And, he said H&M Roses was discharging after they had said they were not.

A Board member asked Mr. Higgins why the staff report was different from Mr. Bohan's findings. Mr. Higgins responded that the staff report discussed the results of staff's site inspections, which found all the large greenhouses had installed wastewater treatment and recycling systems; these systems prevent the bulk of the wastewater generated by the greenhouses from reaching surface waters; and, while the discharges reported by Mr. Bohan are not unimportant, they represent a small fraction of the wastewater generated by the greenhouse industry in Carpinteria Valley.

Mr. Higgins said his inspections found greenhouse operators have eliminated some of the discharges reported by Mr. Bohan. Mr. Higgins could not find some of the discharges Mr. Bohan found, and that Mr. Higgins verified at least two of the discharges. Mr. Higgins stated he had inspected most of the discharges shown in Mr. Bohan's slides, and will inspect them again as soon as possible. A Board member suggested Mr. Higgins request Mr. Bohan accompany him on these inspections, and said he approved of the way the Board's effort to regulate discharges from the Carpinteria Valley greenhouses is going. A Board member recommended staff pursue enforcement actions for greenhouse operators found to be misleading staff. Mr. Higgins said he would contact Mr. Bohan for inspection arrangement.

Mr. Briggs pointed out the supplemental sheet with latest information on Hollister's progress towards complying with the enforcement orders by the Board. Chris Adair, Senior Engineer for the Board reported that the Water Conservation Program due December 6 was submitted on time. Mr. Jeffries asked about the spill near the hotel in Hollister. Mr. Adair described the memo he received from the City about the spill.

The City's description of the spill (magnitude and containment) didn't match up with the call Mr. Jeffries received from someone who witnessed the spill. Mr. Briggs said staff would talk with the hotel staff, follow up on discrepancies, and report back to the Board.

For the Olin perchlorate contamination site in Santa Clara County, John Mijares of Regional Board staff provided a brief update of the onsite soil and groundwater investigation and the progress of offsite domestic well sampling. Mr. Mijares said that Olin had completed the onsite soil and groundwater investigation and submitted the written investigation report on December 3, 2002. Olin has also completed sampling 63 domestic wells downgradient and within one mile of the Olin site. Perchlorate above the 4 ug/l action level was detected in seven wells. According to the data obtained from the soil and groundwater investigation and the offsite domestic well sampling, the perchlorate plume appears to be moving in a southeasterly direction from the site. The lateral extent of the perchlorate plume has not been characterized, so delineation continues.

Chairman Shallcross adjourned the public meeting at 5:09 p.m.

The meeting was audio recorded and the minutes were reviewed by management, and approved by the Board at its February 7, 2003 meeting in San Luis Obispo, California.



Gary Shallcross, Chair